



08-29-03

1645/17  
Docket No:  
Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re of Application of: Bigbie, Rocky B. et al.  
Application No.: 09/840,485      Group Art No.: 1645  
Filed: April 23, 2001      Examiner: Shahnan-Shah, K.  
For: EQUINE PROTOZOAL MYELOENCEPHALITIS VACCINE  
Confirmation No.: 5730  
Customer Number: 25291

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

September 26, 2003

Sir:

TRANSMITTAL LETTER

1. Enclosed please find the following documents for the above-identified application:

Response to Office Action mailed on March 26, 2003 - 4 pages

Petition for Extension of Time

**CERTIFICATE OF MAILING 37 CFR §1.10**

I hereby certify that this paper and the documents referred to as enclosed therein are being deposited with the United States Postal Service on the date written below in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EL 989343159 US addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

9/26/03  
Date

*Ilene M. Hurwitz*  
Ilene M. Hurwitz

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OCT 06 2003

TECH CENTER 1600/2900

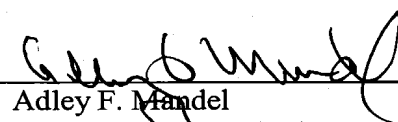
2. Fee calculation

CLAIMS AS AMENDED					
(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT	(3) HIGHEST NUMBER PAID FOR	(4) NUMBER EXTRA x RATE		(5) ADDITIONAL FEE
TOTAL CLAIMS			0	x \$ 18.00	0.00
INDEPENDENT CLAIMS			0	x \$ 84.00	0.00
MULTIPLE DEPENDENCY FEE				\$ 280.00	
				<b>Total Amendment Fee:</b>	<b>\$0.00</b>

☐ Please charge Deposit Account No. 01-1425 for: \$0.00

☒ The Commissioner is hereby authorized to charge any additional fees required by this paper, including the enclosed documents, and during the entire pendency of this application and to credit any excess amounts paid to Deposit Account No. 01-1425. A copy of this letter is enclosed for use by the Deposit Account Branch.

Respectfully submitted,

  
 Adley F. Mandel  
 Attorney for Applicants  
 Reg. No. 26,942

Wyeth  
 Patent Law Department  
 Five Giralda Farms  
 Madison, NJ 07940  
 Tel. No. (973) 660-7659



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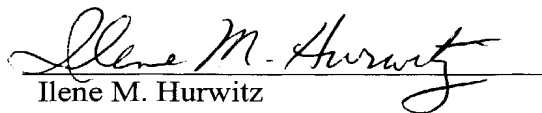
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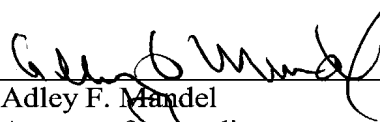
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Attorney for Applicants  
Reg. No. 26,942

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Patent Law Department  
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Attorney Docket No.: AM100123  
PATENT

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In re Application of: Bigbie, Rocky B., *et al*

Serial No.: 09/840,485

Group Art Unit: 1645

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Examiner: Shahnan-Shah, K.

For: EQUINE PROTOZOAL MYELOENCEPHALITIS VACCINE

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**REPLY**

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Sir:

This is in response to the Office Action mailed March 26, 2003, Paper No. 13, in which the previously pending restriction requirement was made final; claims 3, 9, and 15-22 were withdrawn from consideration; and, and claims 1-2, 4-8 and 10-14 have been rejected.

**REMARKS**

Reconsideration of this application and claims 1-2, 4-8 and 10-14 is respectfully requested.

The first part of the Office Action responds to a previously pending restriction requirement, which the Examiner has now made final; and accordingly, the Office Action relates that claims 3, 9 and 15-22 have been withdrawn as being drawn to non-elected inventions. As a result, claims 1-2, 4-8 and 10-14 remain pending.

**First Rejection Under 35 USC 112 – Item 4 of the Office Action**

In this rejection, all pending claim have been rejected under the first paragraph of 35 USC 112, on the premise that the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art, whether, at the time the application was filed, the inventors had possession of the claimed invention. More specifically, the Office Action suggests, that “the invention appears to employ novel strains of parasites”, and, it “is not clear if the written description is sufficiently repeatable to avoid the need for a deposit,” and/or, “if the starting materials were readily available to the public at the